

HOUSE BILL No. 1118

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-3.

Synopsis: Alcoholic beverage permits and redevelopment. Allows the alcohol and tobacco commission to issue a total of 10 new one-way, two-way, or three-way permits for on-premises consumption to the owner or proprietor of a restaurant in a municipality in Hamilton County.

Effective: Upon passage.

Huston, Torr, Schaibley, Cook

January 7, 2016, read first time and referred to Committee on Public Policy.



Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1118

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 7.1-3-19-17, AS ADDED BY P.L.121-2015,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 17. (a) This section applies to a permit issued
4 under IC 7.1-3-20-16(d), IC 7.1-3-20-16(g), IC 7.1-3-20-16(k), ~~or~~
5 IC 7.1-3-20-16(l), **or IC 7.1-3-20-16(m)** if a ~~local unit~~ **municipality**
6 has adopted an ordinance requiring a formal written commitment as a
7 condition of eligibility for a permit, as described in subsection (b).
8 (b) As a condition of eligibility for a permit, the applicant must
9 enter into a formal written commitment with the municipal legislative
10 body regarding the character or type of business that will be conducted
11 on the permit premises. The municipal legislative body must adopt an
12 ordinance approving the formal written commitment. A formal written
13 commitment is binding on the permit holder and on any lessee or
14 proprietor of the permit premises. When an application for renewal of
15 a permit is filed, the applicant shall forward a copy of the application
16 to the municipal legislative body. The municipal legislative body shall
17 receive notice of any filings, hearings, or other proceedings on the



1 application for renewal from the applicant.

2 (c) A formal written commitment may be modified by the municipal
3 legislative body with the agreement of the permit holder.

4 (d) Except as provided in subsection (f), the amount of time that a
5 formal written commitment is valid may not be limited or restricted.

6 (e) A formal written commitment is terminated at the time a permit
7 is lost, revoked, or not renewed.

8 (f) If the character or type of business violates the formal written
9 commitments, the municipality may adopt a recommendation to the
10 local board and the commission to:

11 (1) deny the permit holder's application to renew the permit; or

12 (2) revoke the permit holder's permit.

13 (g) The commission shall consider evidence at the hearing on the
14 issue of whether the business violated the formal written commitments.
15 If the commission determines there is sufficient evidence that the
16 commitments have been violated by the permittee, the commission
17 may:

18 (1) deny the application to renew the permit; or

19 (2) revoke the permit;

20 as applicable.

21 SECTION 2. IC 7.1-3-20-16, AS AMENDED BY P.L.121-2015,
22 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 UPON PASSAGE]: Sec. 16. (a) A permit that is authorized by this
24 section may be issued without regard to the quota provisions of
25 IC 7.1-3-22.

26 (b) The commission may issue a three-way permit to sell alcoholic
27 beverages for on-premises consumption only to an applicant who is the
28 proprietor, as owner or lessee, or both, of a restaurant facility in the
29 passenger terminal complex of a publicly owned airport. A permit
30 issued under this subsection shall not be transferred to a location off
31 the airport premises.

32 (c) The commission may issue a three-way, two-way, or one-way
33 permit to sell alcoholic beverages for on-premises consumption only to
34 an applicant who is the proprietor, as owner or lessee, or both, of a
35 restaurant within a redevelopment project consisting of a building or
36 group of buildings that:

37 (1) was formerly used as part of a union railway station;

38 (2) has been listed in or is within a district that has been listed in
39 the federal National Register of Historic Places maintained
40 pursuant to the National Historic Preservation Act of 1966, as
41 amended; and

42 (3) has been redeveloped or renovated, with the redevelopment or



renovation being funded in part with grants from the federal, state, or local government.

A permit issued under this subsection shall not be transferred to a location outside of the redevelopment project.

(d) Subject to section 16.1 of this chapter, the commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant:

- (1) on land; or
- (2) in a historic river vessel;

within a municipal riverfront development project funded in part with state and city money. The ownership of a permit issued under this subsection and the location for which the permit was issued may not be transferred. The legislative body of the municipality in which the municipal riverfront development project is located shall recommend to the commission sites that are eligible to be permit premises. The commission shall consider, but is not required to follow, the municipal legislative body's recommendation in issuing a permit under this subsection. A permit holder and any lessee or proprietor of the permit premises are subject to the formal written commitment required under IC 7.1-3-19-17. Notwithstanding IC 7.1-3-1-3.5, if business operations cease at the permit premises for more than six (6) months, the permit shall revert to the commission. The permit holder is not entitled to any refund or other compensation.

(e) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a renovation project consisting of a building that:

- (1) was formerly used as part of a passenger and freight railway station; and
- (2) was built before 1900.

The permit authorized by this subsection may be issued without regard to the proximity provisions of IC 7.1-3-21-11.

(f) The commission may issue a three-way permit for the sale of alcoholic beverages for on-premises consumption at a cultural center for the visual and performing arts to the following:

- (1) A town that:
 - (A) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and
 - (B) has a population of more than twenty thousand (20,000) but less than twenty-three thousand seven hundred (23,700).



1 (2) A city that has an indoor theater as described in section 26 of
 2 this chapter.

3 (g) The commission may issue not more than ten (10) new
 4 three-way, two-way, or one-way permits to sell alcoholic beverages for
 5 on-premises consumption to applicants, each of whom must be the
 6 proprietor, as owner or lessee, or both, of a restaurant located within a
 7 district, or not more than seven hundred (700) feet from a district, that
 8 meets the following requirements:

9 (1) The district has been listed in the National Register of Historic
 10 Places maintained under the National Historic Preservation Act
 11 of 1966, as amended.

12 (2) A county courthouse is located within the district.

13 (3) A historic opera house listed on the National Register of
 14 Historic Places is located within the district.

15 (4) A historic jail and sheriff's house listed on the National
 16 Register of Historic Places is located within the district.

17 The legislative body of the municipality in which the district is located
 18 shall recommend to the commission sites that are eligible to be permit
 19 premises. The commission shall consider, but is not required to follow,
 20 the municipal legislative body's recommendation in issuing a permit
 21 under this subsection. An applicant is not eligible for a permit if, less
 22 than two (2) years before the date of the application, the applicant sold
 23 a retailer's permit that was subject to IC 7.1-3-22 and that was for
 24 premises located within the district described in this section or within
 25 seven hundred (700) feet of the district. The ownership of a permit
 26 issued under this subsection and the location for which the permit was
 27 issued shall not be transferred. A permit holder and any lessee or
 28 proprietor of the permit premises is subject to the formal written
 29 commitment required under IC 7.1-3-19-17. Notwithstanding
 30 IC 7.1-3-1-3.5, if business operations cease at the permit premises for
 31 more than six (6) months, the permit shall revert to the commission.
 32 The permit holder is not entitled to any refund or other compensation.
 33 The total number of active permits issued under this subsection may
 34 not exceed ten (10) at any time. The cost of an initial permit issued
 35 under this subsection is six thousand dollars (\$6,000).

36 (h) The commission may issue a three-way permit for the sale of
 37 alcoholic beverages for on-premises consumption to an applicant who
 38 will locate as the proprietor, as owner or lessee, or both, of a restaurant
 39 within an economic development area under IC 36-7-14 in:

40 (1) a town with a population of more than twenty thousand
 41 (20,000); or

42 (2) a city with a population of more than forty-four thousand five



hundred (44,500) but less than forty-five thousand (45,000); located in a county having a population of more than one hundred ten thousand (110,000) but less than one hundred eleven thousand (111,000). The commission may issue not more than five (5) licenses under this section to premises within a municipality described in subdivision (1) and not more than five (5) licenses to premises within a municipality described in subdivision (2). The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission. Notwithstanding any other law, the minimum bid for an initial license under this subsection is thirty-five thousand dollars (\$35,000), and the renewal fee for a license under this subsection is one thousand three hundred fifty dollars (\$1,350). Before the district expires, a permit issued under this subsection may not be transferred. After the district expires, a permit issued under this subsection may be renewed, and the ownership of the permit may be transferred, but the permit may not be transferred from the permit premises.

(i) After June 30, 2006, the commission may issue not more than five (5) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets all of the following requirements:

(1) The district is within an economic development area, an area needing redevelopment, or a redevelopment district as established under IC 36-7-14.

(2) A unit of the National Park Service is partially located within the district.

(3) An international deep water seaport is located within the district.

An applicant is not eligible for a permit under this subsection if, less than two (2) years before the date of the application, the applicant sold a retailers' permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this subsection or within five hundred (500) feet of the district. A permit issued under this subsection may not be transferred. If the commission issues five (5) new permits under this subsection, and a permit issued under this subsection is later revoked or is not renewed, the commission may issue another new permit, as long as the total number of active permits issued under this subsection does not exceed five (5) at any time. The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as



determined by the commission.

(j) Subject to section 16.2 of this chapter, the commission may issue not more than six (6) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant on land within a municipal lakefront development project funded in part with state, local, and federal money. A permit issued under this subsection may not be transferred. If the commission issues six (6) new permits under this subsection, and a permit issued under this subsection is later revoked or is not renewed, the commission may issue another new permit, as long as the total number of active permits issued under this subsection does not exceed six (6) at any time. The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission. Notwithstanding any other law, the minimum bid for an initial permit under this subsection is ten thousand dollars (\$10,000).

(k) The commission may issue not more than eight (8) new three-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be a proprietor, as owner or lessee, or both, of a restaurant located:

- (1) within a motorsports investment district (as defined in IC 5-1-17.5-11); or
- (2) not more than one thousand five hundred (1,500) feet from a motorsports investment district.

The ownership of a permit issued under this subsection and the location for which the permit was issued shall not be transferred. If the commission issues eight (8) new permits under this subsection, and a permit issued under this subsection is later revoked or is not renewed, the commission may issue another new permit, as long as the total number of active permits issued under this subsection does not exceed eight (8) at any time. A permit holder and any lessee or proprietor of the permit premises are subject to the formal written commitment required under IC 7.1-3-19-17. Notwithstanding IC 7.1-3-1-3.5, if business operations cease at the permit premises for more than six (6) months, the permit shall revert to the commission. The permit holder is not entitled to any refund or other compensation.

(l) The commission may issue not more than two (2) new three-way permits to sell alcoholic beverages for on-premises consumption for premises located within a qualified motorsports facility (as defined in IC 5-1-17.5-14). The ownership of a permit issued under this subsection and the location for which the permit was issued shall not



be transferred. If the commission issues two (2) new permits under this subsection, and a permit issued under this subsection is later revoked or is not renewed, the commission may issue another new permit, as long as the total number of active permits issued under this subsection does not exceed two (2) at any time. A permit holder and any lessee or proprietor of the permit premises are subject to the formal written commitment required under IC 7.1-3-19-17. Notwithstanding IC 7.1-3-1-3.5, if business operations cease at the permit premises for more than six (6) months, the permit shall revert to the commission. The permit holder is not entitled to any refund or other compensation.

(m) The commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within an economic development area, an area needing redevelopment, or a redevelopment district as established under IC 36-7-14 in a municipality located in a county having a population of more than two hundred seventy thousand (270,000) but less than three hundred thousand (300,000). The following apply to permits issued under this subsection:

(1) The cost of an initial permit is six thousand dollars (\$6,000).

(2) The total number of active permits issued under this subsection may not exceed ten (10) permits at any time. If any of the permits issued under this subsection are revoked or not renewed, the commission may issue only enough new permits to bring the total number of permits to ten (10) active permits.

(3) The municipality may adopt an ordinance under IC 7.1-3-19-17 requiring a permit holder to enter into a formal written commitment as a condition of eligibility for a permit. As set forth in IC 7.1-3-19-17(b), a formal written commitment is binding on the permit holder and on any lessee or proprietor of the permit premises.

(4) Notwithstanding IC 7.1-3-1-3.5, if business operations cease at the permit premises for more than six (6) months, the permit shall revert to the commission and the permit holder is not entitled to any refund or other compensation.

(5) Except as provided in subdivision (7), the ownership of a permit may not be transferred.

(6) A permit may not be transferred from the premises for which the permit was issued.



1 **(7) If the area in which the permit premises is located is no**
2 **longer designated an economic development area, an area**
3 **needing redevelopment, or a redevelopment district, a permit**
4 **issued under this subsection may be renewed, and the**
5 **ownership of the permit may be transferred, but the permit**
6 **may not be transferred from the permit premises.**
7 **SECTION 3. An emergency is declared for this act.**

